REMARKS

I.   Status of the Application

Claims 1-18, 20-49, 51-63, and 66-73 are pending. Claims 1, 4, 5, 7, 9-13, 15, 19, 21, 23, 25, 31, 34, 37, 38, 40-43, 45, 46, 49, 51, 53-59, 71, and 73 are amended. Claims 64 and 65 are cancelled without prejudice.

The Examiner and his Supervisor are thanked for discussing the Office Action, claims, and prior art with the undersigned attorney on August 11, 2009. The Supervisor indicated that amendments along the lines of those made herein would distinguish the cited references, as discussed below.

II.   Claim Objections

Claims 67, 71, and 73 have been objected to for lack of antecedent basis for the term "the second appliance." The claims have been amended to address the objection.

Withdrawal of the objection and reconsideration of the claims are respectfully requested.

III.   Claim Rejections - 35 USC § 103

A.   Ellis and Plourde

Claims 1, 4-16, 18-29, 31-34, 37-60, and 64-73 have been rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2007/0199030 ("Ellis") in view of U.S. Patent No. 7,380,029 ("Plourde").

Independent claims 1, 19, 34, and 49 define apparatus and methods for receiving program content and methods for use in an apparatus for receiving program content. The apparatus may be a set-top terminal, for example, as recited in claims 18 and 33. Claim 1 requires in part, "a memory for providing a first software application and a second software application." The first and second applications are separately registered in a registry of software applications in the apparatus. The first application is used to realize at least a first programming service for

providing first programming content in accordance with a broadcast schedule while the second application is used to realize at least a second programming service for providing second programming content after broadcast thereof. The second programming content is recorded during the broadcast thereof at a location remote from the apparatus. Independent claims 19, 34, and 49 are similar. The first application may be used to service channels afforded traditional television broadcasts and the second application may be used to service NPVR enabled channels, for example. (Paragraphs 73 and 75, for example).

Claim 1 has been amended to require: "the second application having a first, activated state and a second, background state running as a background process." Claim 1 has also been amended to require that the second application is activated "from the fourth, background state to the third, activated state" in response to a change from the first program service to the second program service." Claims 19, 34 and 49 have been similarly amended. Claims 19 and 49 have also been amended to state that the apparatus are "to be coupled to a display device at a user location."

Claim 1 further requires that, when in the second, activated state, the second application is "receptive to a request for obtaining a selected portion of the second programming content." Claims 19, 34, and 49 are similar. Claims 19 and 49 have been further amended to recite that, in response to the request, the state of the second application is changed to the second activated state to obtain the selected position of the second programming content.

The Examiner admitted that Ellis does not show separately registered applications, as claimed, but alleged that Plourde does. Plourde identifies a Watch TV software application 362 and a PVR software application 377. (See Fig. 3A, col. 17, lines 43-46, col. 18, lines 58-66). TV programs, including HBO, are presented through the Watch TV application 362, while

permanent recordings and write functions of media content are affected by the PVR application 377 and a device driver 311. The PVR application 377 also handles playback of stored media. (Col. 30, lines 48-50).

There is no description of either the Watch TV application or the PVR application 377 having either of the claimed states. Nor is there any indication that the PVR application 377, identified by the Examiner as the claimed second application, runs in a background state until activated in response to a change in program services. There is no such teaching or suggestion in Ellis, either. The Examiner's Supervisor agreed in the telephone interview on August 11, 2009.

In addition, concerning claims 19 and 49, the Examiner alleged that the claimed storage and server are met by the storage 15 and the server 24 in Fig. 2 of Ellis. However, the storage 15 and the server 24 are part of a program guide distribution facility, which provides program guide data to television equipment over a network and is not coupled to a display device at a user location, as required by amended claims 19 and 49. Furthermore, the program guide distribution facility does not provide programming content, as claimed. Therefore, there is no reason to provide the first and second software applications in a program guide distribution facility.

The dependent claims also require limitations not shown in Ellis and Plourde. For example, neither Ellis nor Plourde show the following limitations, required in claims dependent on independent claims 1 and 34: changing a state of the first application from a third, activated state to a fourth, off state, when the state of the second application is changed from the second, background state to the first, activated state, as in claims 4 and 37; accessing the second program source in accordance with the second application when the second application is in the first, activated state, as recited in claims 5 and 38; self-activation of the second application, as recited in claims 8 and 41; the second application causing a state of the first application to be changed

from a third, activated state to a fourth, off state, as recited in claims 9 and 42; and accessing the second program source in accordance with the first application before the state of the first application is changed to the fourth, off state, as recited in claims 10 and 43.

Neither Ellis nor Plourde show accessing the second program source in accordance with the first application, as recited in claims 20 and 50, which are dependent on claims 19 and 49, respectively. The PVR application 377, identified by the Examiner as corresponding to the claimed second application, is not accessed by the Watch TV application 362, identified by the Examiner as corresponding to the claimed first application. It appears to be directly accessed by a hand held remote control or from a list displayed on a screen. (Col. 29, lines 33-40).

In addition, neither Ellis nor Plourde show the following additional limitations required by claims dependent on independent claims 19 and 49: manipulating a presentation of the stored programming content in accordance with the first application in response to a signal indicating a desired manipulation of a presentation of material from the second program source, as recited in claims 21 and 51 (emphasis added); manipulating a presentation of the buffered content in accordance with the first application in response to a signal indicating a desired manipulation of a presentation of the selected portion of the second programming content, as recited in claims 26 and 56.

Claims 1, 19, 34, and 49 and the claims dependent upon them are, therefore, patentable over Ellis and Plourde.

Withdrawal of the rejections and reconsideration of the claims are respectfully requested.

B.   Ellis, Plourde, Goode, and Plotnick

Claims 2, 3, 35, and 36 have been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ellis in view of Plourde and U.S. Patent Publication No. 2004/0226044 ("Goode"). Claims 17 and 30 have been rejected under 35 U.S.C. 103(a) as allegedly being

unpatentable over Ellis, Plourde, and U.S. Patent Publication No. 2002/0178447 ("Plotnick").

Claims 61-63 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over

Ellis in view of Plourde and U.S. Patent Publication No. 2004/0226042 ("Ellis '042).

These claims are allowable for being dependent on allowable claims, as discussed above.
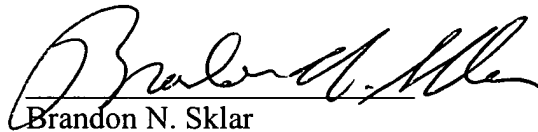
The claims include patentable features, as well.

Withdrawal of the rejection and reconsideration of the claims are respectfully requested.

IV.   Conclusion

Withdrawal of the rejections and reconsideration of the claims are respectfully requested.

Respectfully submitted,
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